

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

FILED

MAR 30 2012

SECRETARY, BOARD OF
OIL, GAS & MINING

IN THE MATTER OF THE REQUEST FOR AGENCY ACTION OF QEP ENERGY COMPANY FOR APPROVAL OF ENHANCED AND SECONDARY RECOVERY OPERATIONS WITHIN THE INITIAL CONSOLIDATED GREEN RIVER FORMATION PARTICIPATING AREA "A" OF THE WHITE RIVER UNIT IN TOWNSHIP 8 SOUTH, RANGE 22 EAST, SLM, UTAH COUNTY, UTAH, FOR AUTHORITY FOR UNDERGROUND INJECTION OF WATER, AND FOR CERTIFICATION AS AN ENHANCED RECOVERY PROJECT FOR PURPOSES OF SECTION 59-5-102(7) OF THE UTAH CODE, ANNOTATED.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

Docket No. 2012-006

Cause No. 276-01

This cause came on for hearing before the Utah Board of Oil, Gas, and Mining (the "Board") on Wednesday January 25, 2012, at approximately 1:00 p.m. in the auditorium of the Utah Department of Natural Resources, 1594 West North Temple, Salt Lake City, Utah. The following Board members were present and participated in the hearing: James T. Jensen, Chairman, Ruland J. Gill, Jr., Jake Y. Harouny, Chris D. Hansen, Kelly L. Payne, Carl F. Kendell, and Jean Semborski. The Board was represented by Michael S. Johnson, Esq., Assistant Attorney General.

Testifying on behalf of Petitioner, QEP Energy Company ("QEP"), was Nathan C. Koeniger, Senior Landman, Robert Basse, Geologist, and Howard W. Musgrove, Staff Reservoir Engineer. William E. Ward, Esq. of Holland & Hart, LLP appeared as counsel for QEP.

3. The formation to be approved for enhanced and secondary recovery is described as follows:

That certain interval in the Lower Green River Formation as identified by the Halliburton Induction electrical log dated January 22, 2002, run in the GB WRU 14W-4-8-22 well located in the SE¼SW¼ of Section 4, Township 8 South, Range 22 East, Uintah County, Utah, with the top of the Project Formation being found at a depth of 5,590 feet below the surface and the base of the Project Formation being found at a depth of 5,974 feet below the surface or to the stratigraphic equivalent thereof.

4. The oil, gas and other minerals in the lands embraced within the PA are owned by the United States of America, and administered by the BLM. There are currently seven Federal Oil and Gas Leases included within the PA.

5. The lands within the PA will be subject to the Unit Agreement and Plan of Unitization for the Development and Operation of the White River Unit.

6. A copy of the Request was sent via certified mail, with return receipt requested, to all mineral, leasehold and production interest owners in the Subject Lands, to all surface owners within a one-half mile radius of the PA, to the State of Utah and to the Vernal Field Office of the Bureau of Land Management.

7. Notice of the filing of the Request and of the hearing thereon was duly published in the Salt Lake Tribune and the Deseret Morning News on January 1, 2012, the Uintah Basin Standard on January 3, 2012, and the Vernal Express on January 4, 2011.

8. During the hearing, the Board voted to allow QEP to amend the Request to Modify the description of the PA.

9. The vote of the Board members present at the January 25, 2012, hearing in this cause was unanimous in favor of granting the Request as amended.

CONCLUSIONS OF LAW

1. Due and regular notice of the time, place, and purpose of the hearing was properly given in the form and manner as required by law and the rules and regulations of the Board and Division to all parties whose legally protected interests are affected by the Request.

2. The Board has jurisdiction of the parties and of the subject matter pursuant to Utah Code Ann. § 40-6-5, 40-6-7, 40-6-8 and 59-5-102. *et seq.*

3. Enhanced, and secondary recovery operations within the PA will be in the public interest and are necessary to promote conservation, to increase ultimate recovery, to prevent waste, and to protect the correlative rights of each owner and producer.

4. The value of the estimated additional recovery of oil substantially exceeds the estimated additional costs incident to conducting enhanced and secondary recovery operations.

5. The proposed enhanced secondary recovery operations within the PA qualify as operations of an enhanced recovery project for purposes of Section 59-5-102(7) of Utah Code Annotated.

6. QEP has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for the granting of the Request.

ORDER

Based upon the Request, as amended, testimony, and other evidence submitted, and the findings of fact and conclusions of law stated above, the Board hereby orders:

1. The Request in this Cause is granted.
2. Enhanced and secondary recovery operations are approved for the PA.
3. The underground injection of water into the Lower Green River Formation within the Subject Lands is authorized.
4. The enhanced, and second recovery operations within the PA are certified as an enhanced recovery project for purposes of Section 59-5-102(7) of Utah Code Annotated.
5. The Board has considered and decided this matter as a formal adjudication, pursuant to the Utah Administrative Procedures Act, Utah Code Ann. §§ 63G-4-204 through 208, and of the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641.
6. This Order is based exclusively upon evidence of record in this proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, as required by the Utah Administrative Procedures Act, Utah Code Ann. § 63G-4-208, and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641-109; and constitutes a final agency action as defined in the Utah Administrative Procedures Act and Board rules.
7. **Notice of Right of Judicial Review by the Supreme Court of the State of Utah.** As required by Utah Code Ann. § 63-G-4-208(e) through (g), the Board hereby notifies all parties to this proceeding that they have the right to seek judicial review of this Order by filing an appeal with the Supreme Court of the State of Utah within 30 days after the date this Order is entered. Utah Code Ann. § 63G-4-401(3)(a) and 403.

8. **Notice of Right to Petition for Reconsideration.** As an alternative, but not as a prerequisite to judicial review, the Board hereby notifies all parties to this proceeding that they may apply for reconsideration of this Order. Utah Code Ann. § 63G-4-302. The Utah Administrative Procedures Act provides:

(1) (a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63-46b-12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied. *Id.*

The Rules of Practice and Procedure before the Board of Oil, Gas and Mining entitled “Rehearing and Modification of Existing Orders” state:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of that month. Utah Admin. Code R641-110-100.

The Board hereby rules that should there be any conflict between the deadlines provided in the Utah Administrative Procedures Act and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the


aggrieved party may seek judicial review of the order by perfecting an appeal with the Utah Supreme Court within 30 days thereafter.

9. The Board retains exclusive and continuing jurisdiction of all matters covered by this Order and of all parties affected thereby; and specifically, the Board retains and reserves exclusive and continuing jurisdiction to make further orders as appropriate and authorized by statute and applicable regulations.

10. The Chairman's signature on a facsimile copy of this Order shall be deemed the equivalent of a signed original for all purposes.

DATED this 30th day of March, 2012.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

By: 
James T. Jensen, Chairman

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER for Docket No. 2012-006, Cause No. 276-01 to be mailed with postage prepaid, this 2nd day of April, 2012, to the following:

William E. Ward
Holland & Hart LLP
222 South Main Street, Suite 2200
Salt Lake City, Utah 84101

III Exploration Company
555 South Cole Road
P.O. Box 7680
Boise, ID 83707

Michael S. Johnson
Assistant Attorneys General
Utah Board of Oil, Gas & Mining
1594 West North Temple, Suite 300
Salt Lake City, UT 84116
[Via Email]

Michael Coulthard
Bureau of Land Management
Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155

Steven F. Alder
Assistant Attorneys General
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 300
Salt Lake City, UT 84116
[Via Email]

Kerr-McGee Oil & Gas Onshore LP
P.O. Box 173779
Denver, CO 80217-3779

Jerry Kenczka
U.S. Bureau of Land Management
Vernal Field Office
170 South 500 East
Vernal, UT 84078

State of Utah
School and Institutional Trust Lands
Administration
675 East 500 South, Suite 500
Salt Lake City, UT 84102-2818